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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/624,004	07/21/2003	Warren P. Williamson IV	LSPL-02A	5627
26875	7590	06/03/2005	EXAMINER	
WOOD, HERRON & EVANS, LLP 2700 CAREW TOWER 441 VINE STREET CINCINNATI, OH 45202			BOMBERG, KENNETH	
			ART UNIT	PAPER NUMBER
			3754	

DATE MAILED: 06/03/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/624,004

Applicant(s)

WILLIAMSON ET AL.

Examiner

Kenneth Bomberg

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 21 July 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) _____ is/are allowed.
- 6) ☐ Claim(s) 1-6, 8-14 and 16-20 is/are rejected.
- 7) ☒ Claim(s) 7 and 15 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 21 July 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|----------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date <u>12-8-03, 3-17-05</u> | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Objections

1. Claim 7 is objected to because of the following informalities:

It appears that claim 7 should be dependent upon claim 2 rather than claim 1.

Appropriate correction is required.

Claim Rejections - 35 USC § 102

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claims 10, 12-13, and 16-18 are rejected under 35 U.S.C. 102(b) as being anticipated by Ikeda (4,248,246).

Ikeda teaches of a sealing cap (Fig. 1) having a hollow elongate body (1) having a deformable sealant (2) therein and an integrally formed retention member (3) according to the claims.

In Reference to Claims 16-17

See column 2, line 45 to column 3, line 21.

In Reference to Claim 18

The method follows directly from the use of the device.

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claim 11 is rejected under 35 U.S.C. 103(a) as being unpatentable over Ikeda (4,248,246).

Ikeda teaches of a sealing cap substantially according to claim 11 but provides an integrally formed retention member (3) rather than a separable member. It would have been obvious to one having ordinary skill in the art to have alternatively made the retention members separable as a matter of engineering design choice because it is well understood in the art that making two parts unitarily formed has the relative advantage of eliminating a production step, while forming two parts separable has the relative advantage of providing the ability to mix and match component parts as desired. In the instant case making the parts separable would allow the same sealing cap to be customized to accommodate a given sized tube and nozzle (see MPEP 2144.04 V C.)

6. Claims 14 and 19 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ikeda (4,248,246) in view of Mochida (US 3,961,731).

In figure 1 Ikeda teaches of a sealing cap (1) with a deformable sealant (2) substantially according to claims 14 and 19 but does not teach to form the retention

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member (3) in the form of threads, instead the retention member (3) is unitarily formed ribs. Mochida teaches to form a sealing cap retention member (10) as threads.

It would have been obvious to one having ordinary skill in the art to have substituted the ribs retention member (3) of Ikeda with the threaded retention member (10) of Mochida, in order to retain the cap more securely as is implicitly taught by Mochida.

7. Claims 1-5, 8-9 and 20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Yan (US 6,213,349) in view of Ikeda (4,248,246).

Yan teaches of container (12) in the form of a hollow tube containing glue, and a nozzle (27) at one end of the tube substantially according to claim 1, but does not show a sealing cap according to the claims. Ikeda teaches to provide a sealing cap (Fig. 1) according to the claims in order to seal and protect the end of the needle (6).

It would have been obvious to one having ordinary skill in the art to have included the sealing cap of Ikeda in the glue dispenser of Yan in order to seal and protect the end of the needle as taught by Ikeda.

In Reference to Claims 2, 4-5 and 8-10

See claims 10, 12-13, and 16-17 above.

In Reference to Claim 3

See claims 11 above.

In Reference to Claim 20

Note in column 4, lines 8-21, a step is included of cutting a portion of the nozzle.

8. Claims 6 is rejected under 35 U.S.C. 103(a) as being unpatentable over Yan (US 6,213,349) and Ikeda (4,248,246) as applied to claims 1-2 above, and further in view of Mochida (US 3,961,731).

It would have been obvious to one having ordinary skill in the art to have modified the container of Yan and Ikeda for the reasons as set forth in the rejection of claims 14 and 19 above.

Allowable Subject Matter

9. Claims 7 and 15 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Conclusion

10. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. The remaining prior art listed on the attached Notice of Reference Cited have been included because they show caps having internal sealing members.


11. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Kenneth Bomberg whose telephone number is 571-272-4922. The examiner can normally be reached on Monday, Tuesday, Thursday and alternative Fridays.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Michael Mar can be reached on 571-272-4906. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

K.B.


KENNETH BOMBERG
PRIMARY EXAMINER